



## Clark County Board of Commissioners' Office

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May 13, 2004

June Boynton  
Environmental Protection Specialist  
U.S. Department of Interior  
Bureau of Indian Affairs  
911 NE 11<sup>th</sup> Avenue  
Portland, OR 97232-4169

Dear Ms. Boynton:

Thank you for the opportunity to comment on the environmental assessment for the Cowlitz Indian Tribe 151.87 acre fee-to-trust transfer project located in unincorporated Clark County, near La Center, Washington.

County staff and consultants have examined the assessment in an effort to meet the original comment deadline established by the BIA. Despite diligent effort, and with some disappointment, we have concluded that there has not been sufficient time or information available to comment on this matter to the extent that it deserves. We therefore respectfully request that the BIA keep the record open on the assessment to allow two weeks for the tribe to provide additional information and another 30 days for the county to complete its review once this information is in hand.

Understanding the necessity of deadlines, we know that we cannot assume there will be an extension. As a result, we are forwarding the partial comments that follow to demonstrate a good-faith effort to perform this task in a timely manner, in the hope that you will make provisions to allow the assessment process to be truly completed.

We further understand that the National Environmental Policy Act applies to BIA programs. The primary requirement is that an environmental impact statement be prepared for every major federal action significantly affecting the quality of the human environment, so we are assuming that an EIS will be forthcoming at the appropriate juncture in this instance.

### **Incomplete Information**

The tribe has decided to declare all of the land in question as being acquired for gaming purposes, in order to receive the highest level of assessment under the federal regulations governing the acquisition of land in trust, *“even though there are no plans for construction of a casino project at this time.”* Thus, the stated desire to keep *all* options open for the tribe has resulted in an overly general assessment of the potential impact of a trust application that could lead to a major commercial complex.

To move forward with the trust application and retain gaming as an option, the tribe has presented a hypothetical plan for a casino. However, this proposed use will likely take only a small portion of the entire site. Therefore, a review of the environmental assessment is a somewhat questionable exercise in assuming there will be a casino and guessing what else many accompany the casino over time.

A more meaningful endeavor would include a rough master plan for the site, so that the entire set of impacts and appropriate mitigations could be determined. Given the economic development objectives of the tribe, it would seem only fitting to assess the maximum build-out of the site, even if development is expected to occur in phases.

Therefore, we are requesting that the tribe or the BIA provide a realistic set of assumptions about the use of the entire site should it be taken into trust. Such assumptions would seem to be an appropriate basis for evaluating the environmental assessment. We believe, moreover, that this information is necessary not only to complete our response to the environmental assessment but also to later follow the terms of our Memorandum of Understanding with the tribe. To have the county project hypothetical impacts from what *might* be developed, based on what *other tribes* have developed in *other locations*, would be more likely to fuel the uncertainty, confusion, and distress already surrounding the trust and initial reservation applications.

Having drawn this general conclusion about the assessment, we turn now to some specific comments about the discussion of a potential casino.

### **Transportation Impacts**

The environmental assessment compares the Cowlitz proposal with gaming enterprises in Las Vegas, Nevada. However, the Las Vegas entertainment district is substantially different from the proposed project site and more likely to serve as an overnight destination that encourages pedestrian uses. Therefore, it would be more appropriate to compare this project with tribal casinos in similar circumstances, such as the Spirit Mountain Casino in Grande Ronde, Oregon. Failure to make an appropriate comparison has undermined the traffic analysis in the environmental assessment, and this error should be corrected. For further discussion of this topic, we are enclosing more detailed comments from our traffic engineers.

### **Additional Land Uses**

The environmental assessment barely addresses cumulative impacts, focusing only on the possibility of a casino. However, the assessment makes vague mention of other development, such as hotels, restaurants, and gas stations. There certainly would be pressure for such development should a casino become a certainty. A genuine assessment of environmental impacts should consider this likely eventuality.

There is also the prospect for the site to employ tribal members who currently live outside the area. As the tribe cites no plans to construct housing in Clark County, there is some question as to how the tribe plans to address the need for tribal members employed at the casino to obtain affordable housing in appropriate locations.

Additional comments on these points from our planning department are enclosed.

## **Wetlands**

County staff concur with the Wetland Analysis Report (Appendix H) prepared by Russell and Associates, Inc. However, the county is concerned that the Wetland Delineation and Assessment Report (Appendix I) prepared by the Resource Co., Inc. may not have identified all of the wetlands on the site.

Surface inundation and/or hydric soils may be observed in several locations outside of the delineated wetland boundaries. Hydrology may be highly seasonal due to the presence of drains. Since the vegetation is disturbed by ongoing grazing and subjected to highly seasonal hydrology, vegetation may not be a reliable wetland indicator during the dry season. Hence, it may be most appropriate to evaluate wetlands on this site as "seasonal wetlands" under Section G of the Washington State Wetlands Identification Manual.

Appendix I also suggests that the wetland buffers required under Clark County Code 40.450 are reduced by 50 percent because the site is located in the rural area. However, it must be noted that such a reduction would only apply to land divisions under Clark County Code 40.450.030.E.3.e.

## **Habitat**

According to the county's geographic information system and site reconnaissance, two tributaries of the East Fork Lewis River exist on the property. The streams are both Washington Department of Natural Resources type 5 watercourses that under Clark County Code would require 150-foot riparian habitat conservation zones to protect fish and wildlife habitat. The zone is measured horizontally outward from the ordinary high water mark or to the edge of the 100-year floodplain, whichever is greater. The former of the two measurements would apply to this site. Additionally, the assessment identifies an area of Oregon white oak habitat in the southeastern corner of the site.

During a site visit, county staff found that the delineated type 5 stream wraps back onto the southwestern corner of the property, cutting through an Oregon ash forest. As a result, the county recommends updating the assessment to show the correct stream delineation.

At this time, the tribe proposes to place its facility in the middle of the site in an existing pasture. If such placement is implemented, habitat areas will be protected. Any change or expansion should be designed to likewise avoid the habitats in question.

## **Endangered Species**

As currently drafted, the tribe's proposal appears to have little potential to negatively affect recovery of salmon in the East Fork sub-basin.

## Public Health

Under the MOU with the county, the tribe agrees to comply with all state and local health regulations. However, the environmental assessment does not adequately address how drinking water, wastewater, solid waste, food service, and health-related complaints would be addressed relative to relevant portions of the Washington Administrative Code.

## Law Enforcement

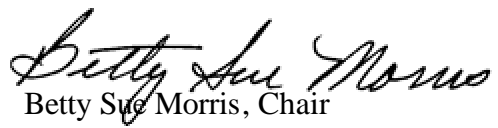
The assessment accurately reflects the Memorandum of Understanding between the county and the tribe. Based on the MOU, our Sheriff's Office expects to enter into formal contract negotiations for service delivery and reimbursement appropriate for the development.

## Social Services

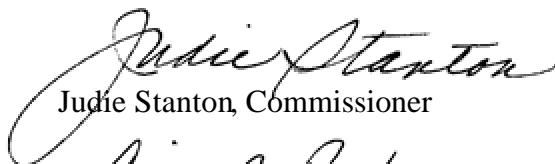
The county does not anticipate a direct impact on existing services. Although a casino can create collateral issues of gambling addiction and related addiction behavior, we are unable to quantify such impacts at this time.

In summary, we ask the BIA to give due consideration to our request for additional information and time to complete this review. By the same token, we offer our utmost assurances that the county will make a genuine effort to fulfill its responsibilities relative to this matter in a manner that does not foster any undue delay for all concerned. We look forward to your reply.

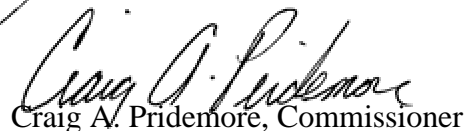
Sincerely,



Betty Sue Morris, Chair



Judie Stanton, Commissioner



Craig A. Pridemore, Commissioner

BOCC/mk

Enclosures

c: Stanley Speaks, BIA Northwest Regional Director  
Greg Argel, BIA Realty Officer  
John Barnett, Cowlitz Indian Tribe  
Governor Gary Locke  
U.S. Senator Patty Murray  
U.S. Senator Maria Cantwell  
Congressman Brian Baird